

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

ERNEST W. L. THOMPSON

PLAINTIFF

v.

No. 2:18-cv-49-DPM

**IVORY T. McDANIEL, Sergeant,
Brickey Unit, ADC; S. CHAPMAN,
Sergeant, Brickey Unit, ADC;
and JERMY SYKES, Sergeant,
Brickey Unit, ADC**

DEFENDANTS

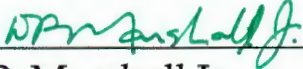
ORDER

Thompson has filed this civil rights complaint against ADC Officers McDaniel, Chapman, and Sykes alleging a physical assault during a transfer, *No. 2*. After the assault, Thompson filed two different grievance forms, *No. 25-2 & -3*. Because both addressed the same assault, only the first was reviewed on the merits, *No. 25-3 at 4*. When Thompson appealed, he didn't attach the Unit Level Grievance Form. The Warden rejected his appeal for not following ADC policy, *No. 25-2*. All these facts are undisputed. McDaniel, Chapman, and Sykes move for summary judgment based on Thompson's failure to exhaust administrative remedies, *No. 25*. Thompson has responded, *No. 29*.

The Prison Litigation Reform Act required Thompson to exhaust the prison's grievance policies before filing suit. 42 U.S.C. § 1997e(a). But Thompson didn't, *No 25-1 at 2 & 8*. His lawsuit therefore fails for lack of exhaustion; the Court cannot address the merits about the alleged assault. *Booth v. Churner*, 532 U.S. 731, 733-34 (2001); *Johnson v. Jones*, 340 F.3d 624, 627 (8th Cir. 2003).

The ADC officers' motion, *No 25*, is granted. The case will be dismissed without prejudice.

So Ordered.



D.P. Marshall Jr.
United States District Judge



19 September 2018